IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 6871 of 2003

For Approval and Signature:

HONOURABLE MR.JUSTICE D.H.WAGHELA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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NILSIN INDUSTRIES THROUGH PARTNER - Petitioner(s)
Versus
GUJARAT MAZDOOR PANCHAYAT & 3 - Respondent(s)

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Appearance :
MR KM PATEL for Petitioner(s) : 1,
NOTICE SERVED BY DS for Respondent(s) : 1,
MR DIPAK R DAVE for Respondent(s) : 2,
Mr HL Jani, Asstt.GOVERNMENT PLEADER for Respondent(s) : 3 - 4.

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CORAM : HONOURABLE MR.JUSTICE D.H.WAGHELA

Date : 02/05/2007

ORAL JUDGMENT

1. The petitioner has approached this court mainly to challenge the impugned judgment and order dated 5.11.1993 of the Payment of Wages

Authority, Ahmedabad in Application No.1004/92 directing the petitioner to pay penalty at 10 times the amount claimed and interest @ 18% thereon to the workmen concerned as also to quash the Recovery Certificate dated 24.2.1994 issued for recovery of the sum of Rs. 90,41,715.99. Respondent No.1 herein, the original applicant in the Payment of Wages Application, is not represented, though served.

2. Learned counsel for the petitioner and learned counsel for respondent No.2, the other Trade Union claiming to be the representative of the workers concerned, have jointly submitted that the parties, i.e. the petitioner and the workmen concerned represented by respondent No.2 and four other representatives elected by the workmen concerned, have entered into an amicable settlement on 26.4.2007 to end all the pending litigations and ensure payment of the agreed amounts to each of the workmen concerned. A copy of the settlement in terms of section 2 (p) of

the Industrial Disputes Act, 1947 is placed and taken on record. According to the conditions of the settlement, it is required, *inter alia,* that the present proceedings should be disposed with the necessary direction to have the residential bungalow of the partner of the petitioner released from attachment so that the money realised from the sale thereof could be utilised for realisation of the cheques already issued in favour of the workmen concerned. It is jointly submitted that each and every workman concerned in the original dispute and the application under the Payment of Wages Act is covered by the terms of settlement and after respondent No.1 having ceased to represent the workmen, respondent No.2 has duly espoused the cause of all the workmen concerned. Learned AGP has expressed no objection to appropriate direction being issued for facilitating implementation of the terms of settlement.

3. Therefore, by joint request, the petition is **allowed** to the extent that the impugned judgment and order dated 5.11.1993 of the Payment of Wages Authority, Ahmedabad in Application No.1004/92 and all other subsequent and consequential proceedings shall stand quashed in terms of the settlement arrived at among the parties concerned and the attachment pursuant to the Recovery Certificate issued by the Payment of Wages Authority for recovery of the sum of Rs. 90,41,715.99 shall stand cancelled along with the certificate itself on condition that the conditions contained in the settlement shall be fulfilled. The parties shall have liberty to approach this court in case of necessity. The amount of Rs.7,00,000/- deposited by the petitioner before the Labour Court pursuant to the interim orders made in the present proceedings and a sum of Rs.77,101/- deposited with the Mamlatdar (Alien Recovery), Ahmedabad, shall be refunded to the petitioner within a period of 15 days with interest, if any,

accrued thereon. The petitioner shall not utilise the amounts so refunded to it for any purpose other than making payments under the settlement which is placed on record. The aforesaid submissions are made by the learned counsel on both sides on instructions and in presence of the representatives of the parties concerned. **Rule is made absolute** accordingly and interim relief is vacated with no order as to costs. Direct Service to respondents No.3 & 4 is permitted.

sd/-
[D. H. Waghela, J.]

msp